

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Case 5:09-cv-449-BO**

Brooke N. Albert, pursuant to the provisions of 28 U.S.C. § 1746, testifies as follows:

1. I am an Associate with the law firm of Lewis & Roberts, PLLC. I am over the age of eighteen (18) and am otherwise competent to make this Declaration. I have personal knowledge of the matters stated herein.

2. I shared the responsibility of drafting and revising the Memorandum of Law in Opposition to Jeremy P. Ridgeway's Rule 12(b)(2) Motion to Dismiss (the "Opposition Brief") filed with this Court on August 4, 2010. (D.E. 129).

3. At approximately 10:45 p.m. on August 4, 2010, while making final revisions to the Opposition Brief, I received a computer notification that my MSWord file had become “corrupted.” The corruption of the file disrupted all of the formatting and footnotes contained throughout the document.

4. Shortly thereafter, my law firm's computer system server went down for approximately twenty to twenty-five minutes. While I do not have personal knowledge as

to the cause of the server problem, there was a severe thunderstorm passing through the area at the time, and I suspect that this storm system may have caused our server problems.

5. Despite these technical problems, I was able to timely upload and file the Opposition Brief by the midnight deadline. However, I was unable to upload and file the twenty-six attachments to the Opposition Brief until forty-nine minutes after the midnight deadline. I filed these attachments as an “amendment” to the original filing. (D.E. 130).

6. Counsel for Defendant Jeremy P. Ridgeway has indicated that he does not object to Plaintiffs’ subsequent filing of the twenty-six attachments to the Opposition Brief and considers the Opposition Brief and attachments to be timely filed. (D.E. 130).

FURTHER, the Affiant sayeth not.

This, the 5th day of August, 2010.



Brooke N. Albert, Esq.

CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2010, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

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